

M I N U T E S
SCOTTSDALE CITY COUNCIL
SPECIAL MEETING
Tuesday, January 14, 2003

**The Kiva
City Hall
Scottsdale, Arizona**

MINUTES
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CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Special Meeting of the Scottsdale City Council on Tuesday, January 14, 2003 in the Kiva, City Hall, at 5:06 P.M.

ROLL CALL

Present:

Mayor Mary Manross
Vice Mayor David Ortega
Council Members Ned O'Hearn, Robert Littlefield, Wayne Ecton,
Cynthia Lukas, and Tom Silverman (arrived at 5:43)

Also Present:

City Manager Jan Dolan
City Attorney David Pennartz
City Clerk Sonia Robertson

PUBLIC COMMENT

Donn Loper, 10761 E. Laurel Lane, listed 15 reasons why the proposed park and aquatic center should be located at the McDowell Mountain Ranch location. The reasons include: 1) the location is ideal considering the demographics of the area, 2) planned traffic improvements, 3) existing pathways for access, 4) the proposed location is almost 1,200 feet from the nearest home, 5) the site grade would minimize the lighting impacts on the area, 6) a community park has been planned since 1985, 7) economy of scale, 8) the existing site meets the General Plan design criteria, 9) the design is 30% complete, 10) homeowners at DC Ranch have been informed of plans for the park and center, 11) developers want the amenity, 12) Parks and Recreation Commissioners voted unanimously for the facility at McDowell Mountain Ranch, 13) the Planning Commission also supported the location unanimously, 14) voters supported location, and 15) the precincts in which McDowell Mountain reports were in favor of the facility by a 3 to 1 margin. He urged Council to listen to the citizens and place the park and aquatic center at McDowell Mountain Ranch.

Daniel Basinger, 29503 N. 107th Place, reminded everyone that the city will be hosting a Household Hazardous Waste collection event on Saturday, Jan. 18 at the city's corporation yard located at 9191 San Salvador. The hours of operation are from 7:30 a.m. to 2:00 p.m. He noted that the last event served approximately 700 people with the longest amount of time people had to wait after 9:00 a.m. was 10 minutes. He urged citizens to participate in the event.

REGULAR AGENDA ITEMS 1 - 2

1. **Front Yard Parking Regulations**
Request to approve:

1. A text amendment to the City of Scottsdale Zoning Ordinance (Ordinance No. 455) adding Article VII, General Provisions, Section 7.200, Additional Area Regulations, I. Designated Parking in front yards (this section shall apply only to single-family detached homes in residential districts).

2. Adoption of Ordinance No. 3484 affirming the above text amendment.

This request seeks to strengthen front yard parking regulations by adopting language that limits the amount of the front yard that can be used for vehicular parking in single-family residential zoning districts. For this purpose, it treats all licensed vehicles the same and does not single out recreational vehicles in any way.

6-TA-2002

Key Items for Consideration:

- This application was requested by the City Council and initiated by the Council on November 19, 2002.
- The Planning Commission recommends denial, 6-0—with the acknowledged need, however, for additional regulations.

Related Policies, References:

Section 9.1 02.H.2 limits parking of all vehicles in front yards to designated areas; 8- TA-95 increased opportunities for unoccupied recreational vehicle storage facilities; and 11-TA-95 refined 8-TA-95 by requiring a conditional use permit for unoccupied vehicle storage facilities in the I-1 district when adjacent to any residential zone and established buffering criteria.

Section 1.1300 of the Zoning Ordinance provides for non-conforming uses. It is recommended that the new provisions shall apply to all vehicles and will take precedence over any portions of Section 1.1300—thus licensed vehicles that are presently parked beyond the proposed 35% or 30' limitation (whichever is less) must comply. It is further recommended that a six (6) month transition period be provided for public awareness and for compliance.

Staff Contact(s): Raun Keagy, (480) 312-2373, rkeagy@ScottsdaleAZ.gov.

Raun Keagy introduced this item with a brief slide presentation which has been summarized below.

6-TA-2002

Front Yard Parking Text Amendment

Why consider a Text Amendment?

- Responds to community concerns regarding what may be considered a reasonable amount of area for vehicular parking in the front yards of single-family neighborhoods.
- Strengthens front yard vehicular parking regulations in order to preserve and enhance the character of single-family residential districts.

Purpose of Tonight's Item

- To seek City Council action on proposed Front Yard Parking Text Amendment 6-TA-2002-- which would limit the amount of area of the front yard which may be used for parking.
- What is a reasonable amount of area that should be used for parking in the front yard?
- What types of vehicles should be regulated?

Existing Front Yard Regulations

- All vehicles must be both currently licensed & operable
- Parking must be on an improved designated surface
- Allows Recreational Vehicles including: motor-homes, travel trailers, campers and watercraft on trailers—if the trailer is licensed and operable.
- Other objects are considered storage and are not permitted (i.e.) furniture, construction material, auto parts, boxes, debris, etc.

Current definition of "improved designated surface"

- All areas designated as parking shall be a dust free surface consisting of concrete, asphalt, cement, brick, or sealed aggregate pavement; or by three (3) inches of crushed rock completely contained within a permanent border. Dust free surface does not include areas of grass, lawn, compacted or hard packed dirt.

	Regulates Maximum Amount of Parking Area	Regulates Size and Type of Vehicle	Regulates Type of Vehicle Only
Glendale	✓ (50% or 30')		
Phoenix	✓ (35%)	✓ (RV's – 32' max.)	
Tempe	✓ (50%)	✓ (RV's – 21' max.)	
Mesa	✓ (50%)		✓ (RV's not permitted – except for load/unload)
Peoria	✓ (35% - 50%)		✓ (RV's not permitted – except for load/unload)

Generalized examples of other City's regulations

- Glendale: Parking permitted in front yard, on improved surface, but cannot encroach into the sidewalk. Limited to 30' of contiguous area or 50% of lot width, whichever is less (including driveway).
- Phoenix: Parking permitted in front yard, on improved surface. Limited to 35% of lot width (including driveway). RV trailers over 32' in length not permitted.

- Tempe: Parking permitted in front yard, on improved surface. Limited to 50% of lot width (including driveway). RV's over 21' in length requires Use Permit from Hearing Officer or Board of Adjustments.
- Mesa: Parking and driveway area not to exceed 50% of lot width. Temporary parking up to 72 hours permitted for Recreational Vehicles in the front yard and side yard. Storage of Recreational Vehicles only permitted in the rear one quarter of the lot.
- Peoria: Parking & driveway area not to exceed 35% of lot width—unless lot is less than 7000 sq. ft. then not to exceed 50%. Temporary parking up to 72 hours permitted for Recreational Vehicles in the front yard. Storage of Recreational Vehicles only permitted in the side or rear yards and must be screened from view.

Neighborhood Enhancement Commission Recommendations

- Parking and driveway areas shall not exceed 35% of the required front yard *and must be contiguous--not located in different areas of the front yard.*
- No vehicle shall be occupied for living purposes while stored at a residence.
- *Vehicles must be set back at least two feet from the sidewalk or curb*
- *Vehicles stored (not moved periodically) on the property must be screened from view and parked so that they do not extend beyond the face of the house and maintain a minimum 1-foot set back from the side property line.*

Planning Commission Recommendation

- The Commission acknowledged the need for further regulations, but felt that there were too many unanswered questions regarding the Neighborhood Enhancement Commission proposal (screening, parking vs., storage, how to address exceptions, the enforceability of the proposed regulations, etc). The Planning Commission recommended denial by a 6-0 vote.

Other Issues identified during public involvement opportunities

- Should any new ordinance apply to all single-family zones or only to some?
- Should motor vehicles be setback a minimum of one foot (1') from the inside edge of the sidewalk or curb (if no sidewalk)?
- Should the parking of certain size Recreational Vehicles considered as storage and therefore not permitted in the front yard area?
- Should screening be required (i.e.) 6' wall, fence or landscaping, if visible from the street?
- Should existing Recreational Vehicle parking be "grandfathered" until the property is sold?

Policy Issues

- What is a reasonable amount of area that should be used for parking in the front yard?
- Should certain types of vehicles be restricted from parking in the front yard?

Recommendations

- The aggregate total of the parking & driveway area(s) may not exceed 35% or 30' of the front yard area (whichever is less)*
- No portion of any vehicle may encroach onto the sidewalk or curb
- No vehicle may be occupied for permanent living purposes while stored at a residence.
- Allow for 6 month grace period for public awareness/ education and to come into compliance*

* added since original proposal

Other Potential Additions

- Only allow motorized vehicles to be parked in the front yard.
 - Motor Vehicle: A self-propelled vehicle that is licensed to operate on the highways of this state—ADOT (This does not include watercraft, utility trailers, non-vehicle mounted camper shells or truck campers or any other vehicle designed to be drawn by another vehicle.)
- If only allowing motorized vehicles in the front yard, also limit size—e.g. 22 feet.

Purpose of Tonight's Item

Seek Council action Front Yard Parking Text Amendment 6-TA-2002

- Recommendations:
- The aggregate total of the parking & driveway area(s) may not exceed 35% or 30' of the front yard area (whichever is less)
- No portion of any vehicle may encroach onto the sidewalk or curb
- No vehicle may be occupied for permanent living purposes while stored at a residence.
- Allow for 6 month transition period for public awareness/ education and to come into compliance

Councilman Littlefield asked for some additional clarifications regarding staff's recommendations. In response, Mr. Keagy explained that staff felt that consideration of aggregate calculations were more appropriate than contiguous areas. He stated that it would be difficult to meet the requirements of contiguous parking areas in many of the existing conditions within the city. For example, a circular driveway would not meet the contiguous parking requirement. Staff felt that the aggregate total, as opposed to contiguous, would be a balanced approach to this issue. Staff also chose not to include the 1' setback from the side yard property line due to the higher level of impact it would have on existing conditions.

Mr. Keagy explained that staff's recommendation applies to single-family, detached homes in residential districts since there are other uses allowed in the districts such as schools, churches, etc. The language is not meant to impact the other types of uses.

Councilman Littlefield questioned staff's exclusion of the 1' setback from the sidewalk or curb that was recommended previously. Mr. Keagy explained that this limitation was excluded due to the level of impact on existing situations as long as the vehicle didn't create a safety hazard.

In response to additional questions from Councilman Littlefield, Mr. Keagy explained that staff looked at the provision limiting the length of time a person could live in a unit parked in a front yard. Staff felt some reasonable and equitable enforcement would be needed regarding this provision. It is staff's intention to preclude people from living in a vehicle for a long-term period; however, it is not staff's intention to eliminate people living in a vehicle on a short-term fashion. He stated that although the timeframe hasn't been determined, 30 days seems to be reasonable.

Mr. Keagy confirmed for Councilman Littlefield that screening is not part of staff's proposal.

Mayor Manross opened public testimony.

Robert Greathouse, 3231 E. Indianola, explained that he has a motor home and boat. He urged Council to consider grandfathering the ordinance if it passes. He stated that it is difficult to store his motor home at another location especially since they get broken into a lot at various storage areas. Four years ago, the

city told residents that they had to install a concrete slab to park vehicles. Many residents went to the expense of having a concrete slab installed so they would be in compliance with the city's wishes. Now the city is limiting parking further. He stated that it is disturbing that this issue has been discussed every 2 or 3 years.

Thomas Thomson, 8730 Hazelwood Street, spoke as a 30 year resident. He felt that the proposed ordinance is the beginning of the erosion of people's rights. He questioned what would be next. He explained that the nice weather in the area enhances people's desire to have "toys" to play with in the outdoors; therefore, people need a place to store them. He stated his belief that people are losing their rights if this law passes. People will be forced to park their vehicles along the streets, thereby, impacting people who wouldn't be impacted without the law.

William Chamberlain, 8231 E. Fairmount Ave., stated that he has lived in the city since 1967. He stated that he has followed the front yard-parking ordinance since the 18th of November. He stated his support for the proposal as recommended by staff although he opposes any changes.

Thomas Cook, 7339 E. Wilshire Drive, spoke as an opponent of the proposed ordinance. He stated that he has lived in the valley for over 45 years. He stated his opinion that the city has gotten completely away from the title of the West's Most Western Town. He felt that the city is no longer the type of community that attracted most of the residents. He noted that the current ordinance has not been aggressively enforced. He urged Council to let the citizens look at the ordinance text before Council votes on it.

Note: Mr. Keagy confirmed that the text of the proposed ordinance has been available to the public for the last 10 days.

Jack Little, 8730 E. Montecito Ave., explained that he lives in a development with CC&R's. He noted that he purchased his home with the understanding that he could park a motor home on his property as long as he complies with the CC&R's. He stated that he doesn't see a problem with parking recreational vehicles within the city. He explained that he is on a fixed income and doesn't have the money to store his vehicle at a storage area.

Curtis Kim, 8545 E. Pinchot Avenue, stated that most people who own recreational vehicles are average citizens who are responsible. He didn't feel there is a problem that needs to be regulated by the proposed ordinance. He questioned the city's rights to pass an ordinance that would limit his property rights as outlined in his documents dated 1961 (Document of Restrictions) he received upon purchasing his home.

William Bartels, 8607 E. Meadowbrook, explained that he had feared his trailer would be taken away from him if the proposed ordinance passed. Due to staff's work and recommendations, he now feels that his situation would be in compliance with the proposed ordinance; however, felt he still must speak on behalf of others who are not in the same situation. He urged Council to grandfather the regulations if they pass the ordinance. He pleaded with Council not to take property away from those who saved all their lives so they could enjoy their retirement.

Lida Stewart, 2626 N. 74th Place, spoke in support of the proposed ordinance. She pointed out that she is also a long time resident of the city. She urged Council to get on with passing the ordinance that has been discussed off and on for fifteen years. She didn't feel the proposed regulations should be so difficult to adhere to while pointing out that some homes in the city have their entire front yard cemented. She urged Council to help preserve the character area of this part of town by passing the ordinance.

Darlene Petersen, 7327 E. Wilshire Drive, explained that she has lived in the same house for 44 years. She briefly gave a brief account of discussions between various cities and Scottsdale regarding zoning ordinances. She pointed out the various valley cities and their regulations which limit front yard parking to illustrate that the City of Scottsdale should also have a front yard ordinance. She stated her desire to see Council pass the ordinance that the Neighborhood Enhancement Committee put forth since she doesn't like staff's recommendations. She stated her belief that one hundred percent parking in the front yard and no ordinance to limit it shows neglect from past Councils to the enhancement and protection of property values in the mature part of town.

Patty Badenoch, 5027 N. 71st Street, stated her belief that over the last fifteen years, citizens have watched the city turn a "blind eye" on too many code enforcement issues. She felt the status quo RV owners have done little or nothing to protect their privileged needs. She stated that the rest of the citizens can no longer rely on RV owners to maintain a quality of life that doesn't negatively impact their neighbors. She felt the results speak for themselves. She also pointed out that other valley cities have enacted screening requirements within their boundaries.

Phyllis Mulhollen, 8437 E. Cambridge, spoke in favor of front yard parking. She explained that she purchased her house in 1990 and owns a camper and small fishing boat. In the years that her family has lived in the house, none of her neighbors have ever complained about the appearance of their yard. She stated that if a person doesn't like an RV parked in the lot next to them, there are a lot of planned communities available catering to different financial levels in which they can live.

William Booth, 8740 E. Mitchell Drive, explained that restrictions are desirable to individuals until they apply to them. He stated that he has a camper and a trailer. He pointed out that none of his neighbors have had a problem with his recreational vehicles. He stated his opinion that passing silly regulations is no way to go about anything. The city already has a lot of ordinances that are not enforced. He explained that as long as his vehicles are legal and registered, he will park his vehicles where he pleases.

Bill Windle, 8208 E. Northland Dr., explained that he is an owner of a RV and a homeowner. He stated that he respects his neighbor's property rights by making a place to park his recreational vehicles in the least intrusive area as possible. He stated that most people moved to the city because of the progressive forethought in making the community a first class city. He urged the Council to keep the neighborhoods from further deterioration by enacting the front yard parking amendment as originally stated.

Alan Jensen, 8631 E. Angus Drive, spoke in support of the ordinance. He explained that he doesn't presently have any motor homes parked on his street and stated his desire to see it continue that way. He urged Council to see what they can do.

Lori Nash, 8127 E. Osborn Road, explained that she thinks of Scottsdale as the Most Livable City because of the variety of housing, employment opportunities, recreational facilities, etc. She pointed out that all the vehicles being discussed tonight are insured, inspected, and licensed. She noted that most of the people speaking in opposition to the proposed restrictions live in a condensed area. She stated that she is one of the people who purchased a home with RV capacity. She stated her belief that if people's options are limited, their property values would decrease. She asked Council to help provide an avenue of resourceful solutions to the problem of neighborhood conflicts. She urged Council to protect the few remaining areas that have diversity.

John Culver, 8544 E. Vista Drive, spoke in opposition to the proposed ordinance. He compared this issue to an issue brought before the Supreme Court in Ohio in 1976. The case involved nine RV owners who were criminally charged with a local ordinance violation. The court ruled in favor of the RV owners

since the municipality's complaint was based on aesthetics. He also noted that in 1971, there were 50 RV violations out of 15,867 total violations within the city, which is less than one tenth of one percent. He expressed his belief that every homeowner's association in the city would like the city to pass regulations that matched their CC&R's so they wouldn't have to deal with enforcement issue and could get rid of their private security people. He stated his opinion that it is the same 8-10 people who file the majority of the complaints in the city.

Tim Reiling, 6841 E. Almeria Road, moved into his neighborhood because he knew what the restrictions were. He pointed out that people who don't want to live in a neighborhood with RVs have plenty of places to go. He noted that RVs are not allowed to block any access points to the roadways; therefore, he felt the specifics mentioned are just selling points for the regulations that aren't needed. He questioned the definition staff is using to define front yards. He stated his opinion that Scottsdale's permits are more expensive than other cities while requiring more permits all the time. He mentioned that code enforcement of dealership parking in his neighborhood is almost non-existent. He stated that the city should enforce the codes they have and not pass more.

Jesse Pogue, 8702 E. Keim Drive, explained that he moved to the city in 1962. He explained that he raised four children in the city while working several jobs. He currently has a motor home that he parks in his driveway and doesn't want to see the city turned into a homeowners association.

Dennis Stadel, 5820 N. 81st Street, explained that his home backs up to a wash. He has a small front and backyard with no alley. He stressed that the restrictions would have serious consequences for him. He stated that he wants to be able to park his trailer in his driveway. He explained that he wants staff to leave citizens alone. He quoted a staff member saying that it is staff's job to harass citizens.

Sonnie Stevens, 8507 E. Highland, expressed her belief that this regulation will determine the future of Scottsdale. She felt it is a simple issue to determine what Scottsdale will be and it is important for the city to continue enhancing its neighborhoods. She noted that item 1 has changed since the last meeting. She stated that she represents people who wish to have changes to staff's recommendations. She suggested that 1) the area be contiguous not aggregate, 2) that the 2' setback from the front yard be included, and 3) a 1' setback be included from the side yards. She noted that safety issues haven't been addressed by the proposed ordinance. She stated her belief that it is not the city's responsibility to help residents find storage for their property. She explained that the petitioners want 1) removal of large objects, 2) encourage visibility, 3) encourage young people to invest in a neighborhood, 4) encourage plantings, and 5) removal of stored objects. She summed up the request as a request for enforceable support from the city for the neighborhoods.

Darryl Yeager, 6809 E Almeria, stated that he is native of the state. He stated that his family has a recreational vehicle. After parking it along his house, he was cited by code enforcement so he spent \$1500 to pave the area. He stated his belief that code enforcement can't handle the load they have now. This new ordinance would just add more to their workload. He questioned where the regulations end. He pointed out that the old Los Arcos and Smitty's sites bring down property values more than front yard parking. He stated his belief that it would unrealistic to expect residents to park their recreational vehicles in another city since that is the closest storage area available.

Steve Depenbrok, 8141 E. Hubbell Street, urged Council to pass the proposed ordinance. He stated that he has a recreational vehicle parked next to his house. It is parked in his neighbor's driveway and hangs three quarters of the way across the sidewalk. He felt that the aesthetic and safety issues should be addressed.

Lyle Wurtz, 6510 E. Palm Lane, explained that is obvious that beauty is in the eye of the beholder. To the RV owner, the RV is gorgeous and his God given right to do whatever he pleases. The same RV is viewed by the rest of the neighborhood as an incredibly dangerous and ugly hunk of metal lowering the value of all the properties in the neighborhood. He felt that when less sophisticated cities like Peoria and Mesa have restrictions, it begs the question of why the issue has festered in Scottsdale for 15 years. He felt the city must restrict front yard parking to ensure that south Scottsdale doesn't begin to look like south Phoenix. He stated his belief that grandfathering is not the answer to the problem. He urged Council to make all parts of Scottsdale uniform. He suggested that the city lease land and give free rental to RV owners for their vehicles.

David Hernandez, 8313 E. Weldon Ave., explained that the majority of the people attending the meeting tonight are from the same neighborhood. Having recreational vehicles is a way people teach family values to their families. He stated that if he wanted to live in a neighborhood with restrictions, he would move to a development that had them. He explained that one of the reasons he moved to his home was because he wanted the ability to park an RV in his front yard.

Pauline Brooks, 8326 E. Cheery Lynn, spoke in support of the proposed ordinance. She stated that she lived in the city for the last 44 years and believes the city's original proposal is fair although acknowledging that she doesn't fully understand the latest changes. She expressed her belief that it is time to act and put some restrictions in place. Above all else, the integrity of the neighborhoods must be made to protect everyone's investment. She surmised that neighbors might not complain to try to keep peace in the neighborhoods. She didn't believe her property values would hold up unless regulations are put in place. She felt that neighbors should respect neighbors by watching what they place in their front yards.

Tammy Bosse, 3417 N. 60th Street, explained that she is a south Scottsdale resident. She described her vision of tidy neighborhoods that everyone can be proud of with friendly neighbors. She expressed concern with the proposal due to lot coverage. She explained that 35% of the front yard area wouldn't be adequate in some of the areas of the city. She felt some attractive, innovation parking options are needed within the city.

George Knowlton, 8701 E. Valley View Road, explained that this subject has come up three times in the last 15 years. The last two times, it ended because people attended the meeting to oppose the regulations. He noted that he had over 400 people who contacted him and could not be here tonight. Quite a few people were upset at what they felt was a "blind sided" attack on their property rights in the mature areas of Scottsdale. He expressed his opinion that the information base that was used to compile the proposed ordinance was fatally flawed. He pointed out that the cities used in staff's comparisons were not even close to comparing to Scottsdale in density; therefore, the comparisons aren't valid. He stated his opinion that the city doesn't need code restrictions for front yard parking since only 50 violations out of a total of 15,896 in the year 2002 involved RVs with a correction rate of 100%. He explained that word of the recent massive changes in the proposed ordinance weren't communicated to the public until days or weeks after they were made. He felt that many of today's potential homeowners look for the more mature, less controlled areas of the city and are willing to pay premium prices. He pointed out that property values have recently increased 20-27% in value. If RVs were a blight, the properties wouldn't have increased at that rate. In addition, there are other code violations that seem to continue unabated. To illustrate his point, he displayed pictures of shrubs that block views onto roadways within the city. He questioned how the city plans on enforcing the complicated ordinance that is proposed if Council approves it. He suggested that code enforcement make monthly sweeps to ensure that the violations throughout the city are addressed. He urged Council to support Scottsdale and restore property rights. He expressed his opinion that the passing of the ordinance will decrease property values and increase

rentals within the city. He reviewed the changes that have occurred in city regulation regarding front yard parking through the years. He suggested the following changes to the existing ordinance: 1) minimum 1' setback from sidewalk or 3' from a non-sidewalk curb, 2) housekeeping in on-property vehicles is prohibited. Sleeping is acceptable for out-of-town visitors for a period not to exceed four consecutive weeks, 3) an additional pad, meeting the current construction code and not exceeding 10 feet in width, can either be attached to the original driveway or constructed along the side property line on the opposite side of the property, but not both, and 4) no parking is to be allowed, other than on the original driveway, which would reduce the ambiance of the landscaped center area of the front yard or possibly block the front living area of the residence from fire or emergency equipment.

Leon Spiro, 7814 E. Oberlin Way, pointed out that the agenda item states that it treats all vehicles the same and does not single out recreational vehicles in any way. He stated his belief that most of the Council members are oblivious to what is actually happening in other areas of the city. He explained that he sees this issue as a legal issue and displayed photos to illustrate the problems he has had with a commercial vehicle being parked in his neighborhood. He expressed his desire to see a copy of the proposed ordinance. He quoted the table in Section 9-103 of City Code entitled Parking Requirements which states, "that dwellings – single, two-family, and townhouses—two parking spaces per unit". He pointed out the definition of a parking space in Section 3-100 – General Definitions. He explained that he called Municipal Code regarding interpretation of the code and was told that since Council approves the code, Council must interpret it. He questioned where parking is addressed in the City Code. He referenced a letter from Attorney Pennartz dated May 17, 2000 regarding the problem Mr. Spiro was having with his neighbor parking a commercial vehicle on his property.

Mayor Manross closed public testimony. Eleven additional comment cards were received opposing the proposed ordinance with five additional cards received in favor of the ordinance from citizens not wishing to speak.

In response to questions from Councilman Silverman, Mr. Keagy clarified that the Neighborhood Enhancement Commission did not clearly define the difference between storage and parking. Their intent was to distinguish when a vehicle is moved on a regular basis as opposed to a stored vehicle. They did not apply a specific timeframe; however, other cities have addressed the issue by allowing 48-72 hours. Mr. Keagy also displayed a graphic to identify how the city defines "front yards". A front yard is defined as the area from side yard to side yard from the front property line to the base of the house. He clarified that staff research was conducted by a quick window survey looking at existing conditions and is no way a statistically valid survey.

Mr. Keagy verified for Councilman Silverman that the major issue with the proposed ordinance seems to be the types and sizes of vehicles that would be included in the regulations.

Mayor Manross requested further clarification on why staff believes aggregate calculations would be more appropriate than contiguous. Mr. Keagy explained that staff took into account both the existing conditions such as unusual shaped driveways and conditions where the driveway exists in a different area than an existing pad. Staff felt that the aggregate calculation would accommodate special and unusual circumstances.

Councilman Littlefield expressed concern over the lack of definition for the term "permanent living". Mr. Keagy explained that staff did not include a specific timeframe definition for permanent living. Staff believes that it would be easier to apply enforcement by reviewing the individual circumstances that exist rather than having a specific timeframe. Councilman Ecton agreed that some people would move out of

the unit for one day and then back in to meet code if a timeframe were set. He stated his belief that judgment will need to be used.

In response to questions from Mayor Manross, Mr. Keagy explained that staff looked at existing conditions and tried to address them. Staff suggests that permanent living in vehicles stored on the property is not appropriate. The intent of this regulation was not to limit the ability of a resident having a temporary guest visit on a seasonal basis.

Mayor Manross explained her belief that safety issues are first priority regardless of which side of the issue anyone is on. She felt that changes to the amendment to address safety issues are worth looking at. She pointed out that she doesn't believe that it is desirable to have the entire front yard area of any home paved for parking purposes.

Vice Mayor Ortega explained that most of what has been heard tonight indicates that a pad location for a recreational vehicle can work within a 10' width. He stated his belief that this item is not about banning RVs; however, felt there are some storage problems within the city. He expressed concern over possibly creating a class of lawbreakers. He stated his support for a transition period to allow compliance with the ordinance.

In response to questions from Vice Mayor Ortega, City Attorney Pennartz explained that staff did not do any title research on deed restrictions on particular properties. Zoning provisions are completely separate from deed restrictions or CC& R's. They don't over-ride the deed restrictions. Neither do the deed restrictions over-ride the zoning since they are independent of each other. Nothing in the deed restrictions would impact the Council's ability to make a decision tonight.

Vice Mayor Ortega requested clarification on the proposed ordinance as it relates to existing pads. Attorney Pennartz explained that the provisions being considered do not deal with removing any physical improvements. The provision strictly deals with what percentage of the front yards vehicles can be parked regardless of the area currently cemented.

Councilman Littlefield explained his belief that all zoning codes are compromises between the right to do what the property owner wants and the rights of neighbors. He noted that the proposed ordinance isn't exactly as he would have personally crafted it, however, he felt it is a good compromise. He agreed that currently code enforcement is inconsistent. He explained that one of his personal priorities is to give code enforcement support and additional resources so they can do what is necessary to enforce the code.

COUNCILMAN LITTLEFIELD MOVED TO APPROVE A TEXT AMENDMENT TO THE CITY OF SCOTTSDALE ZONING ORDINANCE (ORDINANCE NO. 455) ADDING ARTICLE VII, GENERAL PROVISIONS, SECTION 7.200, ADDITIONAL AREA REGULATIONS, I. DESIGNATED PARKING IN FRONT YARDS (THIS SECTION SHALL APPLY ONLY TO SINGLE-FAMILY DETACHED HOMES IN RESIDENTIAL DISTRICTS) AND ADOPTION OF ORDINANCE NO. 3484 AFFIRMING THE ABOVE TEXT AMENDMENT. (CASE **6-TA-2002**) WITH THE REPLACEMENT OF ITEM 3 ON PAGE 9 OF EXHIBIT A ATTACHED TO THE ORDINANCE WITH THE FOLLOWING VERBIAGE: "ADDITION OF A MINIMUM 1' SETBACK FROM SIDEWALK OR 3' FROM A NON-SIDEWALK CURB". COUNCILWOMAN LUKAS SECONDED THE MOTION.

Councilwoman Lukas stated that the preservation of neighborhoods has been a top priority of hers and was the key reason why she got involved in the community issues upon moving to the city. She agreed that the city's neighborhoods are diverse and stated her appreciation of this characteristic. She stated her

belief that the proposed ordinance is a compromise which strikes a balance. She expressed her opinion that the 35% limitation is reasonable. Although figures are not firm, it appears that approximately 15 percent of recreational vehicle owners will be impacted by the proposed ordinance. It is not a total ban nor is it a total hardship on everyone within the city. It is a move toward making improvements in the southern part of the city and to preserve the character of the neighborhoods. She suggested that if the ordinance passes tonight, that it should be reassessed after 6 months to see if it has created undue hardships on citizens and how it impacted neighborhoods.

Councilman Silverman explained that the motion did not address the one-foot setback along side yards. Mr. Keagy agreed that a setback isn't unreasonable, however, people cannot encroach upon their neighbor's property line anyway. Staff chose not to include the setback in their recommendation due to the higher level of impact on existing conditions within the city.

After further discussion, it was agreed that if two adjoining property owners agreed to park their recreational vehicles in between their properties, code enforcement wouldn't cite the individuals.

Vice Mayor Ortega noted that most people don't realize that the front property line begins where the water meter is and not at the street itself since the city owns a right-of-way in front of the residences. He pointed out that although the city owns the right-of-way, parking in the area is not prohibited.

Councilman O'Hearn felt that Council has three choices including: 1) go along with the status quo, 2) tighten the current regulations with a grandfather provision, or 3) tighten the regulations. He stated his belief that grandfathering the ordinance is not a solution since it separates one property from another and makes enforcement difficult. He explained that since the city doesn't have a comprehensive database, the city must be sensitive to special circumstances. He stated that although he would rather keep the contiguous calculation rather than aggregate, he understood that contiguous calculations would impact a large amount of citizens. He agreed that 1' from a sidewalk or curb is necessary although he would even like a 2' regulation in place to address safety issues.

COUNCILMAN SILVERMAN MOVED TO AMEND THE MOTION TO INCLUDE A 1' SETBACK REQUIREMENT FROM A SIDE PROPERTY LINE. COUNCILMAN ECTON SECONDED THE AMENDMENT WHICH CARRIED 4/3 (D.O., M.M., C.L.).

THE ORIGINAL MOTION AS AMENDED CARRIED 6/1 (D.O.)

Mayor Manross stated her opinion that Council should review the ordinance in 9 to 12 months rather than the suggested 6-month period to assess the situation to see if it is effective.

*****2. Alternative Charter Amendment on formation of Municipal Fire Department and Resolution to add measure to May 20, 2003 Special Election.**

Requests: Per the request of Councilman O'Hearn:

- Consider Adopting Ordinance No. 3492 submitting to the qualified electors of the City a charter amendment, adding Sec. 6 to Art. 4 of the Charter, requiring the creation of a municipal fire department within 18 months; and
- Adopt Resolution No. 6242 adding the ballot measure to the special election on May 20, 2003 and referring Ordinance No. 3492 to the voters for adoption or rejection.

Staff Contact: David Pennartz, (480) 312-2405, dpennartz@ScottsdaleAZ.gov

Councilman O'Hearn explained that he requested this item be placed on the agenda as an alternative measure on the ballot dealing with fire services. He explained that although there has been a lot of

questions about the motivation behind his request, he assured everyone that he simply is trying to reconcile the initiative process with participatory government. He stated that he has had nothing but good experiences with the city's firefighters and harbors no ill feelings or intentions. He expressed his belief that the proposed alternative measure would simplify the question before voters since the current initiatives are complex. He explained that the language as approved by the voters becomes law; therefore, the city attorney will have to defend it and the city manager will have to oversee its implementation. He questioned why the current measure sets a 6-month implementation requirement since it is such an important issue. He also questioned why the current measure mandates a specific structure, which limits the city's ability to structure a municipal fire department as it deems necessary. He pointed out that the measure has the potential to open the door to legal challenges if a particular individual isn't hired by the city from the current Rural Metro staff.

Councilman Ecton explained that he felt it was important that the initiative be placed on the ballot as soon as possible. He indicated that he had requested a decision agenda item that was scheduled for February 18, 2003 to give staff direction related to the transition from private to public service using a reasonable and planned business approach. In August and again in October 2002, he requested that the firefighters consider not going through with their latest initiatives to give the Council an opportunity to consider a transition; however, they rejected this approach. Due to Councilman Littlefield's request to consider placing the measure on the ballot, Councilman Ecton explained that he agreed to withdraw his request. He stated his belief that it is his duty, as a Council member, to work with the city manager to ensure that all processes and services provided by the city are implemented and managed in a businesslike manner. He explained that he continues to feel strongly that the city needs more time to implement this change due to budget and organization issues. If voters want the transition, it should be done with proper respect to the firefighters and the burden it places on the city. He stressed that this is not an attempt to undermine the firefighter's initiative. It is an attempt to have a rational, logical approach to the transition if the voters approve it.

In response to questions from Councilman Ecton, City Manager Jan Dolan estimated the transition costs to the city for a municipal fire department would be between \$2 –4 million. She noted that as details are compiled, more specific numbers would be available. She stated that the city's finance department developed an estimated budget for a municipal fire department that would include a pension through the state pension system that is almost equal to what the city pays according to their contract with Rural Metro. She pointed out that the estimated budget assumes that the 14-firefighter positions would still be on the ambulances operated by Rural Metro and also respond to emergency situations. If they do not, then Council would have to determine if the city wishes to replace the fourth person in some way rather than only have three people respond on the fire apparatus. If the 14 positions were replaced for all shifts, the additional costs would be approximately \$3 million.

In response to additional questions, Ms. Dolan explained that the city's expected budget deficit in 2003-2004 is between \$12-17 million. In order to finance a municipal fire department and the transition costs, Ms. Dolan explained that revenues are limited; therefore, choices would need to be made on how the city will spend the money.

COUNCILMAN O'HEARN MOVED TO ADOPT ORDINANCE NO. 3492 SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY A CHARTER AMENDMENT, ADDING SEC. 6 TO ART. 4 OF THE CHARTER, REQUIRING THE CREATION OF A MUNICIPAL FIRE DEPARTMENT WITHIN 18 MONTHS; AND ADOPT RESOLUTION NO. 6242 ADDING THE BALLOT MEASURE TO THE SPECIAL ELECTION ON MAY 20, 2003 AND REFERRING ORDINANCE NO. 3492 TO THE VOTERS FOR ADOPTION OR REJECTION. COUNCILMAN ECTON SECONDED THE MOTION.

Councilman Littlefield stated his opposition to the motion. He stated that the issue has been on the table for quite some time, therefore, he felt the transition could be made in the required time if the measure passes. He noted that state law provides that legislative bodies can change some of the details of an initiative providing that the changes pass by a three quarter vote and that the change doesn't detract from the main issue. He pointed out that the firefighters have expressed a willingness to be somewhat flexible on some of the transition costs, which is why the costs aren't known at this time.

Councilman Littlefield stressed that Council had a chance to do something with this item when he proposed that the issue be placed on the ballot last year. At that time, Council had an opportunity to place the issue on the ballot any way Council saw fit. He felt that Council had their opportunity to word the ballot language as they wished, however, the opportunity has passed.

Mayor Manross opened public testimony.

Henry Becker, 9643 E. Vereda, explained that Rural Metro has been in business for 50 years or better with no major issues having been brought to the city because of their actions. He pointed out that Rural Metro also has additional professionally trained help if needed whereas, the city does not have the help available. He didn't feel the city can afford \$150,000 or more for a special election due to the city's deficit. He stated his belief that the issue is really about a pension. He stated his belief that the firefighters took a job that paid a good salary and now would like a pension plan. He expressed his opinion that if the firefighters didn't think their career choices out ahead of time, they shouldn't come back afterward. He felt in all fairness, if you don't like a job, don't take it. Citizens shouldn't have to finance additional expense because firefighters thought of something after the fact. He stressed that there are other issues that need to be addressed that are important to the taxpayers in the city. He questioned why one of those issues, districting, isn't placed on the same ballot.

Lyle Wurtz, 6510 E. Palm Lane, stated his belief that the city would confuse the issue further by placing another initiative on the ballot. He explained that the issue has been under discussion for several months by citizen committees and staff, therefore, rebuffed the argument that this is happening too fast. He agreed with the editorial in the newspaper urging Council to let the citizens speak.

Steve Springborn, 9313 East Hubbell St., pointed out that he doesn't believe there is any intent by Council to subvert the process, however, the measure would confuse the issue. The people have placed the issues on the ballot. He requested that the ballot language remain the same.

Rich Woerth, 4315 N. 68th Street, also stated that he doesn't believe the Council has any ill intentions in proposing this item for consideration. He explained his opinion that there is a misconception of what has been put forth. He expressed his belief that the people want the language on the ballot as it is and another measure would simply split the vote. He urged Council not to confuse the issue.

John Rooney, 7719 E. San Fernando Dr., explained his belief that Council made an agreement with the committee that they ratified last week sending the issue to the ballot with no conditions. He stated his opinion that the city doesn't have the right to change the process since it violates the spirit of the Constitution of the State of Arizona.

Mike Bentler, 3314 N. 68th Street, stated his opinion that Councilman O'Hearn wishes to sabotage a clear resolution by attempting to alter an election through the introduction of a counter measure. He felt that Councilman O'Hearn's true motive is to split the vote, therefore defeating both measures. He stressed his dislike of the measure and the Coalition of Pinnacle Peak's support. He questioned the timing of the proposal and felt the citizens should decide.

Maxine Petti, 9039 N. 104th Place, spoke in opposition to the proposed measure. She reminded Council that they voted to place the firefighter's initiative on the ballot in May 2003. She felt the additional measure would simply dilute the vote. She pointed out that Rural Metro uses city owned stations while firefighters drive city-owned vehicles and use city-owned gas. She felt a municipal fire department would be no threat to any other department. She explained her belief that Rural Metro's performance, when compared with similar cities, is within the middle range. She stated her opinion that the city can do a better job of recouping transition costs.

Mayor Manross closed public testimony. Two additional comment cards were received in support of the measure from citizens not wishing to speak.

Councilwoman Lukas stated she doesn't believe the Council should "tinker" with the citizen initiative. She explained her belief that it would have been helpful if the citizen's group had discussed the timing and process of the change with Council considering the tough economic times.

Vice Mayor Ortega stated his belief that the citizens should decide the main question of whether fire services should remain with Rural Metro or if the city should have a municipal fire department.

Councilman Silverman explained that he doesn't have a problem with the ballot language.

Councilman Littlefield noted that if everyone agrees that the firefighter's pensions need to be funded, the funds would come from the city's treasury anyway. The only question is, when the funding will take place.

Mayor Manross explained that she shares concerns expressed by Councilman O'Hearn, however, explained that Council encouraged the firefighters to get the necessary signatures before the measure was placed on the ballot. She felt the city should respect the language the firefighters brought forth. She stressed her desire to see an honest debate over the issue as the election approaches.

THE MOTION FAILED 2/5 (M.M., R.L., C.L., T.S.).

Public Comment

Marion Murray, (no address given), explained that she would fight for Mr. Bentler's first amendment rights to verbally abuse any public official in a public setting since it is the epitome of what the nation is based upon. When such a performance does not occur in Items from the Floor, she felt that the person should be removed from the podium.

City Manager's Report - None

Mayor and Council Items

Councilwoman Lukas requested an item be added to Council's agenda to allow Council to give direction to staff to send out a Request for Proposal for the Los Arcos site as soon as possible.

Councilwoman Lukas also requested an update from staff on the McDowell Road Beautification Project and any other revitalization projects in the area.

Vice Mayor Ortega requested a review appraisal of the current appraisal on the Los Arcos property.

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 9:23 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Sonia Robertson, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Special Meeting of the City Council of Scottsdale, Arizona held on the 14th day of January 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this _____ day of January 2003.

SONIA ROBERTSON
City Clerk